

1646
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Practitioner's Docket No. MPI00-535OMNIM

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Fraser, Christopher C., et al.
Application No.: 09/759,130 Group No.: 1646
Filed: January 12, 2001 Examiner: Dong Jiang
For: NOVEL GENES ENCODING PROTEINS HAVING PROGNOSTIC,
DIAGNOSTIC, PREVENTIVE, THERAPEUTIC, AND OTHER USES

Commissioner for Patents
Washington, D.C. 20231

TRANSMITTAL

1. Transmitted herewith for this application is/are:
 - a. This Amendment Transmittal (2 pages);
 - b. Response to Restriction Requirement (2 pages);
 - c. Preliminary Amendment (6 pages); and
 - d. Return Receipt Postcard

STATUS

2. Applicant is other than a small entity.

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CERTIFICATION UNDER 37 C.F.R. SECTIONS 1.8(a) and 1.10*

I hereby certify that, on the date shown below, this correspondence is being:

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37 C.F.R. SECTION 1.8(a)

37 C.F.R. SECTION 1.10*

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TRANSMISSION

- ☐ transmitted by facsimile to the Patent and Trademark Office.

Date: April 17, 2003

Signature

Sean Hunziker

(type or print name of person certifying)

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PETITION FOR EXTENSION OF TIME

2. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

Fee: \$ 0.00

Extension fee due with this request \$0.00

If an additional extension of time is required, please consider this a petition therefor.

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

	(Col. 1)		(Col. 2)		(Col. 3)	OTHER THAN A SMALL ENTITY	
	Claims Remaining After Amendment		Highest No. Previously Paid For		Present Extra	Rate	Addit. Fee
Total	16	Minus	65	=	0	\$18.00	= \$0.00
Indep.	3	Minus	2	=	1	\$84.00	= \$84.00
First Presentation of Multiple Dependent Claims			0			\$280.00	= \$0.00
						Total Addit. Fee	\$84.00

Total additional fee for claims required \$84.00

FEE PAYMENT

5. Charge Account No. 501668 the sum of \$0.00 (which includes the \$0.00 extension fee and the \$84.00 additional fee for claims). A duplicate of this transmittal is attached.

FEE DEFICIENCY

6. If any additional extension and/or fee is required, charge Account No. 501668.
If any additional fee for claims is required, charge Account No. 501668.

April 17, 2003

MILLENNIUM PHARMACEUTICALS, INC.

By Paul J. Paglierani

Paul J. Paglierani

Registration No. 52,498

75 Sidney Street

Cambridge, MA 02139

Telephone - 617-761-6865

Facsimile - 617-551-8820



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Examiner: Dong Jiang

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Commissioner for Patents
Washington, DC 20231

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M.G.J.
4/29/03

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

In response to the Restriction Requirement dated March 17, 2003, Applicants hereby elect Group I, drawn to isolated nucleic acid molecules, vectors thereof, host cells, and methods of recombinant expression of such (claims 1-7, 12, and 26-55). In order to be fully responsive, Applicant hereby provisionally elects, with traverse, to prosecute the claims drawn to nucleic acid sequence SEQ ID NO:379, and to corresponding polypeptide sequence SEQ ID NO:381, without prejudice to Applicant's right to pursue the non-elected subject matter in other applications. However, Applicants respectfully traverse the Requirement for Restriction and

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reserve the right to petition therefrom under 37 C.F.R. § 1.144 and for the reasons set forth below.

**The Nucleic Acids of This Invention are Properly
Elected as Separate Species of a Common Genus**

The Office Action indicates that election of the separate nucleic acids sequences in this application is not a species election. Applicants respectfully traverse this part of the Restriction Requirement, and submit that the separate nucleic acid sequences SEQ ID NOs:379 and 380 (TANGO 234 full length cDNA and open reading frame, respectively) should be examined together, as species of a common genus.

Contrary to what is stated in the Restriction Requirement, the sequences of SEQ ID NOs:379 and 380 are related in that the nucleic acid sequence of SEQ ID NO:380 comprises a portion of (i.e., the open reading frame of) full length nucleic acid sequence SEQ ID NO:379, and both sequences are capable of encoding the TANGO 234 protein (SEQ ID NO:381). Furthermore, the inclusion of both SEQ ID NOs:379 and 380 in the current election does not pose a serious examination burden on the Examiner; in fact, it would require virtually the same search and examination, since searching and examining SEQ ID NO:379 (full length TANGO 234 cDNA) includes by necessity a search and examination of its subsequence, SEQ ID NO:380 (TANGO 234 open reading frame).

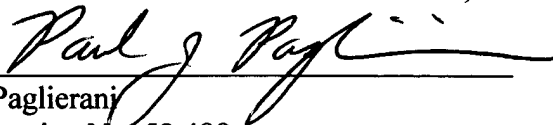
Applicants believe no additional extensions of time are required. In the event any additional extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668. Entry of the remarks made herein is respectfully requested.

April 17, 2003

Respectfully submitted,

MILLENNIUM PHARMACEUTICALS, INC.

By


Paul Paglierani

Registration No. 52,498

75 Sidney Street

Cambridge, MA 02139

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Certificate of First Class Mailing (37 CFR 1.8(a))

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April 17, 2003

Date of Signature and of Mail Deposit

By:

Sean Hunziker

PRELIMINARY AMENDMENT

Please amend the above-identified application as follows:

In the Claims:

☒ Please cancel claims 1-85 without prejudice. Add claims 86-101 as follows.

86. An isolated nucleic acid molecule selected from the group consisting of:

a) a nucleic acid molecule having a nucleotide sequence which is at least 90% identical to the nucleotide sequence of any of SEQ ID NOs:379, 380, and the nucleotide sequence of any of the clones deposited as ATCC® Accession number 207184, or a complement thereof;

b) a nucleic acid molecule comprising at least 300 nucleotide residues and having a nucleotide sequence identical to at least 300 consecutive nucleotide residues of any of SEQ ID